REMARKS

The Office Action mailed May 15, 2009, has been carefully considered together with each of the references cited therein. The remarks presented herein are believed to be fully responsive to the Office Action. Accordingly, reconsideration of the present Application in view of the following remarks is respectfully requested.

Claim Objections

Claims 1-6 and 8-11 stand objected because of the following formalities: "said claims claim a composition "wherein the laser markable composition is made by an extrusion process, press molding, injection molding, or blow molding." The referenced limitation is a characterization of different statutory class of invention 35 USC § 101, specifically products. Thus it is unclear what exactly applicant is trying to claim a composition . . . or a product."

This rejection is respectfully overcome. The answer to the Office's question is that Applicants are claiming a composition, i.e. a mixture of matter where the mixing is performed by an extrusion or molding process of all ingredients.

It is believed that this recitation overcomes the claim objection.

Claim Rejections Under 35 USC § 103

Claims 1, 4-6 and 8-11 stand rejected under 35 USC § 103(a) as being unpatentable over Cradic et al. (US 2002/0072559) in view of Toshikatsu et al. (JP H05-571886). This rejection is respectfully traversed.

Cradic discloses a colored data storage media. The Office admits that Cradic fails to teach (i) the specific combination of elements as an embodiment and the (ii) presently claimed amount of zinc sulfide. Paragraph 9, Page 4 of the Office Action. In the next Paragraph of the Office Action, the Office interprets KSR to imply the rationale that it would have been obvious to try any combination of disclosed components to synthesize a functioning product.

It is Applicants' understanding, however, that KSR does not allow a proposed combination of prior art to sustain a rejection when such combination is contrary to what is explicitly taught in the prior art document(s).

Respectfully stated, it Applicants' courteous position that the combination of prior art advanced by the Office in support of its § 103 rejection is contrary to the express teachings of the prior art.

Specifically, the instant claims claim a composition wherein each ingredient, i.e. the polymeric material, the mica, the metal sulfide and the non-black organic pigment, is mixed or blended together by extrusion or moulding to get a homogeneous composition of matter.

In contrast, Cradic suggests combining, in a polyolefin matrix (Par. 14), "various additives ordinarily incorporated in resin compositions... such as antioxidants etc. " (Par. 32) or "other potential additives, such as zinc sulfide" (Par. 34). Cradic does not teach or suggest the incorporation of mica into the polyolefin resin. On the contrary: Par. 49, expressly states:

> The use of inorganic fillers such as glass flake to produce visual effects may also alter rheological properties of a thermoplastic resin making it difficult to produce optical media substrates from such compositions."

"Glass flakes" and "mica" are both regarded as inorganic fillers (see Paragraph. 31). The use of mica in Par. 31 which the Office refers to is not incorporated in the colored data storage plastic composition. Par. 31 reads:

> Further color or design may be imparted to the substrate via a decorative layer . . .The decorative layer, which is disposed on a side of the disk opposite a data storage layer. . . can be any color or design, such a design which optionally includes sparkle, i.e. visual effects which scatter incident light such as glass or metal . . .mica, fiberglass . . "

Par. 38 discloses such decorative layers being disposed on the colored substrate by lamination etc.

Simply and respectfully stated, Cradic discloses using mica, if any, in a **separate layer** laminated onto the colored data storage substrate. According to Cradic, mica is **not** part of a composition of matter comprising a polyolefin, zinc sulfide and a pigment, while in the present invention mica is claimed constituent of the composition. Thus, any suggestion that Cradic teaches the use of mica on the data storage substrate not only goes beyond the disclosure of Cradic but actually contravenes the express disclosure of such reference.

Regarding teaching (ii), the Toshikatsu reference is only relied upon to show that zinc sulfide is known as a pigment. This is not disputed. However, Toshikatsu does not contribute anything to the disclosure of Cradic bringing mica into relation with a laser markable composition according to instant claims. Therefore, a combination of Cradic and Toshikatsu would not arrive at the present invention.

Claims 2-3 stand rejected under 35 USC § 103 as being unpatentable over Cradic et al. (US 2002/0072559) in view of Tiohave been rejected as being unpatentable over Cradic in view of Toshikatsu et al. (JP H05-571886) as applied to claims 1, 4-6, and 8-11 above, and further in view of Hartmann et al. (US 6, 019,883). This rejection is respectfully traversed.

For at least the reasons advanced against the rejection of claims 1, 4-6, and 8-11 above as being unpatentable over the combined teaching of Cradic and Toshikatsu, it is respectfully contended that dependent claims 2 and 3 can not be made obvious over any combination of Cradic, Toshikatsu and Hartman.

For all the foregoing reasons, it is respectfully contended the 35 USC § 103(a) rejection have been traversed. In consequence, Applicants courteously solicits reconsideration and withdrawal of the rejections.

In view of the forgoing remarks, the present Application is believed to be in condition for allowance, and reconsideration of it is requested. If the Examiner disagrees, he is requested to contact the attorney for Applicants at the telephone number provided below.

Respectfully submitted,

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